

ORIGINAL

PUBLIC VERSION

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
MAY 7 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Long-Term Telephone Number Portability )  
Tariff Filings )

U S West Communications, Inc. )  
Transmittal Nos. 965, 975 )

CC Docket No. 99-35  
RM 8535

DOCKET FILE COPY ORIGINAL

---

AT&T CORP. OPPOSITION TO DIRECT CASE

---

Mark C. Rosenblum  
Roy E. Hoffinger  
James H. Bolin, Jr.

Its Attorneys

Room 3245H1  
295 North Maple Avenue  
Basking Ridge, NJ 07920  
(908) 221-4617

May 7, 1999

No. of Copies rec'd at 4  
List ABCDE

---

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
SUMMARY .....	i
I. U S WEST FAILS TO EXPLAIN WHY ITS LNP SURCHARGE AND QUERY RATES GREATLY EXCEED THOSE PROPOSED BY OTHER RBOCS .....	1
II. U S WEST OVERSTATES ITS NETWORK INVESTMENTS AND EXPENSES.....	3
III. U S WEST'S CLAIMED OSS COSTS VIOLATE THE COMMISSION'S LNP COST RECOVERY REQUIREMENTS .....	6
A. U S West Seeks To Recover Improper OSS Expenses.....	6
B. U S West's Claimed OSS "Maintenance" Costs Are Invalid.....	8
IV. U S WEST IMPROPERLY CALCULATES ITS CLAIMED NETWORK MAINTENANCE EXPENSE.....	9
V. U S WEST'S INCLUSION OF A 1.89 FACTOR VIOLATES THE COMMISSION'S ORDERS.....	10
VI. U S WEST'S INCLUSION OF ITS COSTS ASSOCIATED WITH A FIFTH SCP PAIR DOES NOT COMPLY WITH THE COMMISSION'S REQUIREMENTS .....	13
VII. U S WEST IMPERMISSIBLY INCLUDED LNP EXPENSES AND INVESTMENTS IN ITS INTRASTATE RESULTS.....	15
CONCLUSION .....	18

## SUMMARY

Although U S West's direct case recognizes and offers to correct some of the errors contained in their previous filings, its proposed surcharge and query rates are still far in excess of those proposed by other RBOCs. While U S West asserts its high rates are not due to its failures to modernize its network, it simply fails to address the Designation Order's fundamental question: why has U S West, alone among the RBOCs, purportedly incurred this level of expense to implement LNP? While U S West does not make a serious attempt to justify the gross divergence between its tariff and those of other RBOCs, myriad significant errors are readily apparent in its direct case.

First, U S West's claimed network investments and expenses appear to be significantly overstated.

Second, the direct case confirms that the tariff seeks to recover significant costs relating to OSS modifications that, by U S West's own admission, do not satisfy the two-part test established in the LNP Cost Classification Order. That order made clear that such costs were recoverable in LNP tariffs only if they (1) would not have been incurred by the carrier "but for" the implementation of number portability, and (2) were incurred "for the provision of" portability. Disregarding these unequivocal requirements, U S West seeks to recover a variety of costs that satisfy only the first prong of this test.

Third, U S West's claimed "maintenance" costs for its OSS and network related costs also fail to satisfy the Commission's two-part test. U S West has not demonstrated that it will in fact incur the additional maintenance costs it has claimed.

Fourth, U S West's continued use of a 1.89 additive factor in its calculation of its query rates openly flouts the Commission's orders. U S West devotes much of its direct case to

an improper collateral attack on the Commission's ruling that ILECs may recover through their LNP query tariffs only their incremental costs of implementing LNP. The LNP Cost Classification Order unequivocally held that ILECs may recover only overhead charges that are actually new costs incremental to and resulting from the provision of LNP. U S West does not even attempt to show that its 1.89 factor satisfies this test.

Fifth, U S West's direct case makes plain that the costs associated with its fifth SCP pair were not incurred "for the provision of" portability, but rather were necessary merely to adapt other systems to enable them to operate in an LNP-capable network. The costs of this SCP pair thus do not satisfy the Commission's two-part test, and are not recoverable through U S West's LNP tariffs.

Finally, U S West admits that it failed to remove LNP-related charges and associated revenues from its intrastate investments and expenses and that as a result, has overstated its intrastate rates. These improper charges should be refunded. Further, future intrastate rate cases may make use of historical investments and expenses, which currently are overstated by virtue of U S West's inclusion of LNP-related costs. Accordingly, U S West should make the appropriate accounting adjustments in order to improve the accuracy of its reported intrastate results.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

_____	)	
In the Matter of	)	
	)	
Long-Term Telephone Number Portability	)	CC Docket No. 99-35
Tariff Filings	)	
	)	
U S West Communications, Inc.	)	
Transmittal Nos. 965, 975	)	
_____	)	

**AT&T CORP. OPPOSITION TO DIRECT CASE**

Pursuant to the March 25, 1999 Order Designating Issues For Investigation ("Designation Order"),<sup>1</sup> AT&T Corp. ("AT&T") hereby opposes the direct case filed by U S West Communications, Inc. ("U S West") concerning the lawfulness of its long-term local number portability ("LNP") query service and LNP end-user surcharge tariff filings.<sup>2</sup>

I. U S WEST FAILS TO EXPLAIN WHY ITS LNP SURCHARGE AND QUERY RATES GREATLY EXCEED THOSE PROPOSED BY OTHER RBOCS

U S West's proposed LNP surcharge and query rates are far higher than those filed by other RBOCs. The Designation Order expressly noted this fact,<sup>3</sup> and questioned whether the discrepancies were due to inefficiencies in U S West's network:

U S West's tariff filing raises the issue of whether its costs of implementing number portability are substantially higher than those of other RBOCs because its network is less efficient. If so, its higher costs may be the result of a failure to

<sup>1</sup> Order Designating Issues For Investigation, Long-Term Number Portability Tariff Filings, CC Docket No. 99-35 (released March 25, 1999) ("Designation Order").

<sup>2</sup> Unless otherwise indicated, all citations are to the direct case of U S West.

<sup>3</sup> Designation Order, ¶ 11.

have performed general network upgrades for which recovery has been provided through price cap or rate-of-return recovery mechanisms. Where a LEC has failed to upgrade its network and recover the costs of those network upgrades through price cap or rate-of-return recovery mechanism, it may not be reasonable to allow recovery of higher number portability costs than the LEC would have recovered if the LEC had implemented number portability on an efficient, more modern network.

\*\*\*\*

We designate for investigation whether U S West's end-user and query service charges are reasonable. As part of this issue, we designate for investigation whether the costs U S West claims for these services are eligible number portability costs. We further designate for investigation whether it is reasonable to allow U S West to recover higher number portability implementation costs than those incurred and recovered by LECs with more modern networks.<sup>4</sup>

U S West's proposed LNP surcharge is almost 250% higher than Bell Atlantic's -- the only RBOC LNP surcharge the Commission has permitted to take effect without investigation. U S West's query rates are even more grossly out of line. Even taking into account the direct case's recalculations, U S West's proposed query rate is more than four times higher than Bell Atlantic's.<sup>5</sup> Indeed, the amount recovered through U S West's proposed 1.89 additive itself exceeds Bell Atlantic's entire proposed query rate.

In response to the Commission's request for an explanation of the difference in its rates versus those of other RBOCs, U S West asserts that "the relative technological state of U S West's network would simply be irrelevant to the costs which it is entitled to recover."<sup>6</sup> This

---

<sup>4</sup> Id., ¶¶ 12, 14.

<sup>5</sup> Although U S West's current filing acknowledges some of the errors contained in its LNP tariffs and recalculates its query rates, U S West has not re-filed its LNP query tariff. Accordingly, even though U S West admits its currently-effective query rates are overstated, it continues to charge them.

<sup>6</sup> U S West, p. 21.

blanket denial fails to address the Designation Order's fundamental question: why did U S West, alone among the RBOCs, incur LNP expenditures of the magnitude the instant tariffs claim? U S West accordingly has failed to carry its burden of proof under 47 U.S.C. § 204(a)(1) that its proposed charges are lawful.

## II. U S WEST OVERSTATES ITS NETWORK INVESTMENTS AND EXPENSES

While U S West does not make a serious attempt to justify the gross divergence between its tariff and those of other RBOCs, myriad significant errors are readily apparent in its direct case. In particular, U S West's claimed network investments and expenses appear to be significantly overstated.

U S West's SSP costs are approximately [REDACTED]% of those claimed by Bell Atlantic.<sup>7</sup> U S West, however, intends to implement LNP in roughly 60% as many switches as Bell Atlantic.<sup>8</sup> Thus, on a per-switch basis U S West contends that it must spend [REDACTED] [REDACTED] There is no apparent basis for this dramatic differential.

U S West also seeks to recover significant amounts in order to [REDACTED]

[REDACTED]<sup>9</sup> [REDACTED]

<sup>7</sup> Compare US West Workpaper 5, pp. 1-2 (Switching SSP Type 2 Network Recoverable Costs) with Bell Atlantic Transmittal No. 1111, filed March 2, 1999, Chart 1.

<sup>8</sup> U S West's Chart 1 indicates that it intends to implement LNP in 1565 of its switches. Bell Atlantic's LNP tariff indicates that it intends to implement LNP in all of its switches by year-end 1999. See Bell Atlantic Transmittal No. 1111, filed March 2, 1999, p. 890.17 section 13.3.16(A) ("[LNP] will be activated in the remaining Telephone Company switches by the end of 1999."). According to 1997 ARMIS data, Bell Atlantic has a total of 2745 switches.

<sup>9</sup> [REDACTED]

[REDACTED]

[REDACTED]

The LNP Cost Classification Order held that

only a portion of the joint costs of software generics, switch hardware, and OSS, SS7, or AIN upgrades are carrier-specific costs directly related to number portability. The Commission concluded that these modifications and upgrades also provide a wide range of services and features unrelated to the provision of number portability and are recoverable by LECs in their rates for other services.<sup>10</sup>

[REDACTED]

[REDACTED]. Rather than attempting to claim the entire cost of these upgrades, U S West can, at most, attribute to LNP only the difference between the upgrade's costs with the LNP functionality, and its costs without that feature. Moreover, the LNP Cost Classification Order held that in order to recover even this incremental cost, a LEC

must demonstrate that all avoided costs and incremental revenues made possible by the upgrade will not cover the costs of the upgrade. The eligible LNP costs of the upgrade cannot exceed the remainder of the costs after subtracting all avoided costs and incremental revenues.<sup>11</sup>

AT&T has been unable to locate any documentation that suggests [REDACTED]

[REDACTED]

[REDACTED]

---

<sup>10</sup> Memorandum Opinion And Order, Telephone Number Portability Cost Classification Proceeding, CC Docket No. 95-116, RM 8535 (released December 14, 1998), ¶ 26 ("LNP Cost Classification Order").

<sup>11</sup> LNP Cost Classification Order, ¶ 29.



Further, U S West seeks to recover substantial costs for what appears to be [REDACTED]

[REDACTED]<sup>12</sup> [REDACTED]  
[REDACTED]  
[REDACTED]. The LNP Cost Classification Order recognized that including costs for extensive workarounds in order to implement LNP due to obsolete equipment in an ILEC's network is inappropriate. "That some LECs have delayed making updates to their networks, for which a recovery mechanism has already been provided, does not authorize them to recover those costs now through the federal LNP charges."<sup>13</sup>

Even if the Commission accepts U S West's argument that it should not have been expected to update the technology utilized for the lines in question using its existing revenues, the direct case fails to account for the additional revenues that this modification will permit U S West to earn. As shown above, the LNP Cost Classification Order expressly required ILECs to make such adjustments.

Where an upgrade that meets our two-part test discussed above is not dedicated solely to number portability and is not available without the portability functionalities, we require LECs to make a special showing to establish the eligible LNP costs associated with the upgrade. The burden is on the LEC to

---

<sup>12</sup> [REDACTED]

<sup>13</sup> LNP Cost Classification Order, ¶ 27. U S West has stated in other Commission proceedings that it is strongly committed to upgrading its facilities, including in rural areas. For example, U S West has repeatedly contended that it is ready and willing to upgrade its network in order to provide broadband Internet access to the rural communities in its territory. See, e.g., U S West, Petition for Relief, p. 41 filed February 25, 1998 in Petition of U S West Communications, Inc. For Relief From Barriers To Deployment of Advanced Telecommunications Services, CC Docket No. 98-26. U S West thus should not be heard to argue in this proceeding that it is unwilling or unable to make network upgrades such as those that would enable CLASS services.

demonstrate what portion, if any, of such upgrade should be attributed to LNP. Specifically, the LEC must demonstrate that all avoided costs and incremental revenues made possible by the upgrade will not cover the costs of the upgrade.<sup>14</sup>

[REDACTED]

[REDACTED]

[REDACTED].

### III. U S WEST'S CLAIMED OSS COSTS VIOLATE THE COMMISSION'S LNP COST RECOVERY REQUIREMENTS

#### A. **U S West Seeks To Recover Improper OSS Expenses**

The LNP Cost Classification Order imposed a two-part test to determine whether a cost purportedly incurred by an ILEC is in fact "directly related to the implementation and provision of telephone number portability," and therefore eligible for LNP cost recovery pursuant to the Commission's rules:

Under this test, to demonstrate that costs are eligible for recovery through the federal charges recovery mechanism, a carrier must show that these costs: (1) would not have been incurred by the carrier "but for" the implementation of number portability; and (2) were incurred "for the provision of" number portability service.<sup>15</sup>

The order made plain that under this test, ILECs may not seek to recover their costs to modify systems that, while potentially affected by LNP, are not used to provide that service.

The Commission specifically rejected the proposition that eligible LNP costs include all costs that carriers incur as an "incidental consequence of number portability." For this reason, in submitting their tariffs, we require LECs to distinguish clearly costs incurred for narrowly defined portability functions from costs incurred to adapt other systems to implement LNP, such as repair and maintenance, billing, or order processing systems.<sup>16</sup>

---

<sup>14</sup> LNP Cost Classification Order, ¶ 29.

<sup>15</sup> Id., ¶ 10.

<sup>16</sup> Id., ¶ 12.

The LNP Cost Classification Order went on to make even clearer the types of OSS costs that are recoverable in LNP tariffs:

We also interpret the phrase "porting telephone numbers from one carrier to another" narrowly, as referring only to the systems for uploading and downloading LRN information to and from the regional Number Portability Administration Centers (NPACs) and for transmitting porting orders between carriers. Because some carriers may argue that this phrase encompasses a myriad of changes to OSS systems affected by the porting of a telephone number, we again advise LECs to distinguish costs that fall under the narrower definition of this phrase and costs that might be encompassed in a broader interpretation of it in filing their federal tariffs.<sup>17</sup>

U S West attempts to justify its claimed OSS expenses by stating that:

In particular, these functions meet one or more of the following criteria:

- (a) The system is required to set up transmission of data or actually transmits data to the NPAC;
- (b) The system is required to provision the service to the network element; or
- (c) Call processing for a ported number will not work without this system.<sup>18</sup>

Although U S West alleges that it did not seek to recover OSS costs that violate the LNP Cost Classification Order, its transmittal cannot be reconciled with that order's requirements. Indeed, item (c) in the above list would expressly permit recovery a variety of costs that are not "for the provision of" portability services by including wide a variety of OSS modifications that are merely necessary to accommodate existing systems to an LNP-enabled environment.<sup>19</sup>

---

<sup>17</sup> Id., ¶ 14 (footnotes omitted, emphasis added).

<sup>18</sup> U S West, pp. 23-24.

<sup>19</sup> Number portability breaks the link between the first three digits of a customer's seven-digit telephone number (the "NXX") and the carrier that provides his or her local service. Once LNP is in place, customers in the same NXX can be served by different LECs, and carriers must modify their internal systems to account for this fact.

Exhibit 1 to this opposition lists the improper OSS modifications that U S West seeks to recover in its LNP tariff, and explains why each claimed expense is impermissible.

**B. U S West's Claimed OSS "Maintenance" Costs Are Invalid**

U S West also seeks to recover \$ [REDACTED] for OSS "maintenance" costs. The direct case attempts to defend this expense by stating that: "The maintenance costs for OSS were calculated as 15% of the costs incurred for the development and modification of OSS that was required for LNP purposes."<sup>20</sup> This claimed expense is plainly baseless. None of the other RBOCs LNP tariffs filed to date include a similar OSS maintenance factor, and there are no grounds to believe that one is warranted in U S West's case.

Even assuming that all of U S West's claimed direct OSS costs met the Commission's requirements -- which they do not -- there would be no basis for U S West to apply a 15% factor to those expenses for purported "maintenance." U S West provides no evidence to support its contention that it will incur any additional maintenance expenses on its OSS systems due to its implementation of LNP. Most of the claimed OSS expenses are for modifications to existing OSS systems so that they can operate in an LNP-capable environment. However, the costs to maintain these existing OSS are already being recovered through U S West's current rates. There are simply no grounds to assume that modifying these systems would cause their maintenance costs to increase in the manner U S West suggests. As with all costs it contends are recoverable in its LNP tariffs, U S West has the burden of proving that it will actually incur additional costs, that those new costs would not have been incurred "but for" LNP, and that the costs were incurred "for the provision of" LNP as that phrase is defined in the

---

<sup>20</sup> U S West, p. 13.

Commission's orders. U S West's appears to have calculated its OSS maintenance factor by simply dividing its yearly OSS maintenance costs by its total OSS investment.<sup>21</sup> Applying such a methodology to recoverable OSS expenses does not yield an accurate estimate of U S West's incremental OSS maintenance costs.

IV. U S WEST IMPROPERLY CALCULATES ITS CLAIMED NETWORK MAINTENANCE EXPENSE

Paragraph 10 of the Designation Order requires U S West to provide further information concerning its actual expenditures "for all land, buildings, administration, and maintenance expenses that are claimed." U S West explained its calculation of its claimed maintenance expense as follows:

U S West also included maintenance costs associated with the network equipment deployed in connection with LNP. These costs were equal to 2% of the capital expenditures for LNP-related network equipment incurred in the prior year.<sup>22</sup>

U S West's chart 2A provides its capital related network costs attributable to the end user surcharge, while its Attachment 3 provides network maintenance expense included in its end user surcharge rate. As the chart below shows, even if U S West's maintenance factor is applied to the claimed total cumulative capital investment (without considering depreciation), the reported maintenance expense greatly exceeds 2% of the "capital expenditures for LNP-related network equipment in the prior year."

---

<sup>21</sup> Id., pp. 13-14, 25.

<sup>22</sup> Id., p. 14.

	1997	1998	1999	2000	2001	2002	2003/4	Total
Network Capital	■	■	■	■	■	■	■	■
Cumulative Capital	■	■	■	■	■	■	■	■
Maintenance Expense	■	■	■	■	■	■	■	■

(all figures in millions)

#### V. U S WEST'S INCLUSION OF A 1.89 FACTOR VIOLATES THE COMMISSION'S ORDERS

---

In paragraph 26 of the Designation Order, the Bureau stated:

We also designate for investigation whether U S West's use of a 1.89 factor to adjust its estimated "forward looking incremental" query cost constitutes use of a general overhead factor. We direct U S West to explain why use of this factor does not result in recovery of embedded costs rather than incremental costs of number portability.

U S West's direct case does not even attempt to demonstrate that its use of this additive complies with the LNP Cost Recovery Order<sup>23</sup> and the LNP Cost Classification Order, instead arguing that the Commission should have established different rules to govern LNP cost recovery. This collateral attack on the Commission's orders is both unavailing and patently improper. This sole issue before the Commission in this proceeding is whether U S West's tariff complies with its existing requirements. Its 1.89 factor plainly fails that test.

The LNP Cost Classification Order held that

only new overhead costs are eligible for recovery through the federal charges mechanism; no allocation of embedded overheads is permitted. .... LECs must, therefore, demonstrate that any incremental overheads claimed are actually new costs incremental to and resulting from the provision of LNP.<sup>24</sup>

<sup>23</sup> Third Report and Order, Telephone Number Portability, CC Docket No. 95-116, FCC 98-82 (released May 12, 1998) ("LNP Cost Recovery Order").

<sup>24</sup> LNP Cost Classification Order, ¶ 33 (emphasis added).

Southwestern Bell, Pacific Bell and Bell Atlantic initially attempted to recover similar markups in their LNP tariff filings, but have since removed those charges from their cost calculations, in keeping with the Commission's orders. Ameritech never sought to apply such an additive. U S WEST has sought reconsideration of the LNP Cost Recovery Order's holding that ILECs may not include general overhead loadings in their LNP tariffs. However, it is black-letter law that the filing of a petition for reconsideration in no way relieves the petitioner of its obligation to comply with the rules that it challenges.<sup>25</sup>

U S West makes no attempt to shoulder its burden of proving that its 1.89 factor is in any way representative of its incremental costs -- presumably because it is simply unable plausibly to make that claim. Instead, U S West argues on pages 30-32 of its direct case:

Because most new services use investment that was installed in earlier years at a cost higher than forward looking costs, an overhead that accounts for this difference is applied to reflect the true cost of the service. .... LNP query services utilize existing capacity on U S West's SS7 network that was installed in the late 1980s at higher costs than those applicable today. U S West's 1.89 overhead merely reflects this real cost of the existing infrastructure being used.

\*\*\*\*

In order to maintain profitability, the price companies must either reduce cost or introduce new services that share embedded infrastructure. For this reason the Commission's rules allow all services to recover the cost of shared infrastructure (i.e. overhead). As a type of new service, query services are entitled to precisely the same treatment.

---

<sup>25</sup> See 47 U.S.C. § 405. Even if the Commission were, in another proceeding, to reconsider its rules in response to a petition for reconsideration or an application for review, those rule changes would not have retroactive effect. See, e.g., Bowen v. Georgetown Hosp., 488 U.S. 204 (1988). Accordingly, U S WEST would be required to refund any amounts collected under its LNP tariffs that were inconsistent with the Commission's rules as of the time the charges were incurred.

Accordingly, U S West's costing methodology comports with the Commission's price cap rules for new services. Since the new LNP query services fall under the price cap rules (as opposed to the LNP surcharge, which is being treated outside of the price cap mechanisms) U S West's treatment of the query costs, including its use of the 1.89 overhead factor, is an appropriate method to develop the cost-based price for query services.<sup>26</sup>

These arguments are patently meritless, and in all events have been unequivocally rejected by the Commission's LNP orders.

The Commission has held repeatedly that only new, incremental investments and expenses that would not have been made "but for" and "for the provision of" portability are recoverable through LNP surcharges or query charges. The LNP Cost Classification Order so held at no fewer than four points:

--[W]e agree with AT&T that only new costs can be claimed as eligible LNP costs.<sup>27</sup>

--We interpret the Commission's language regarding incremental costs as requiring that incumbent LECs subtract the costs of an item without the telephone number portability functionality from the total costs of that item with the telephone number portability functionality. Only the difference, the incremental cost incurred for the provision of portability, is an eligible long-term portability cost.<sup>28</sup>

--[O]nly the difference between the costs of the upgrades without the LNP functionality and the total cost of the upgrades with the LNP functionality is an eligible LNP cost.<sup>29</sup>

--We find that only new overhead costs are eligible for recovery through the federal charges mechanism; no allocation of embedded overheads is permitted. The Third Report and Order clearly prohibits the use of general overhead factors,

---

<sup>26</sup> U S West, pp. 31-32.

<sup>27</sup> LNP Cost Classification Order, ¶ 18.

<sup>28</sup> Id., ¶ 23.

<sup>29</sup> Id., ¶ 27.



which are based on embedded costs. The Commission noted, "[c]arriers already allocate general overhead costs to their rates for other services, and allowing general overhead loading factors for long-term number portability might lead to double recovery." LECs must, therefore, demonstrate that any incremental overheads claimed are actually new costs incremental to and resulting from the provision of LNP.<sup>30</sup>

Paragraph 35 of the LNP Cost Classification Order explicitly considered -- and expressly rejected -- U S West's argument that LNP query charges should be exempted from the above-quoted principles:

We disagree, however, with Ameritech's proposal to use general allocation factors in identifying incremental overheads to be applied in identifying costs to be recovered through query service charges to other carriers. The Third Report and Order prohibited use of general overhead loading factors in identifying eligible LNP costs, and did not distinguish between end-user and query services charges in this respect. Thus, any overhead allocation factor to be applied to query service charges must be an incremental overhead based on a special study similar to the study Ameritech has proposed with respect to retail common costs, but adapted to apply to query services (wholesale common costs).

Even if U S West's claims were otherwise cognizable in this tariff investigation (as they are not), the very arguments it seeks to offer here have already been considered and rejected by the Commission.<sup>31</sup> Accordingly, the Commission should disallow U S West's bloated 1.89 additive.

#### VI. U S WEST'S INCLUSION OF ITS COSTS ASSOCIATED WITH A FIFTH SCP PAIR DOES NOT COMPLY WITH THE COMMISSION'S REQUIREMENTS

U S West seeks to recover its costs for a pair of SCPs that it states are "dedicated to routing queries for ABS, Calling Name, certain CLASS services, and Interswitch Voice

---

<sup>30</sup> Id., ¶ 33 (footnote omitted).

<sup>31</sup> U S West also should not be heard to argue that it should be permitted to levy whatever charges it wishes for LNP query services because those services are purportedly competitive. The Commission has already determined that it is appropriate to require ILEC monopolists to tariff LNP query services at cost-based rates, see LNP Cost Recovery Order, ¶ 9, and there is no basis to revisit that conclusion in this proceeding, even if it were procedurally proper to do so.

Messaging Service associated with LNP-capable NPA-NXXs...."<sup>32</sup> While the investments and associated expenses claimed for this fifth SCP pair potentially satisfy the Commission's "but for" criterion, they plainly do not meet its requirement that claimed expenses be "for the provision of" LNP. U S West's fifth SCP pair is, by U S West's own admission, utilized merely to ensure that other services work correctly in an LNP-enabled environment, not for uploading and downloading LRN information to and from the NPACs or transmitting porting orders between carriers.

U S West also contends that it may recover its costs for a fifth SCP pair because the MRP functions that equipment performs are "necessary in order to port numbers without impairment of 'quality, reliability, or convenience.'"<sup>33</sup> U S West well knows, however, that this is not a criterion for determining whether an expense is recoverable via LNP tariffs. The LNP Cost Classification Order expressly rejected this argument in the context of claimed OSS costs, and there is no basis to presume that a different standard should apply to U S West's SCP pair.

Some LECs have asserted that all of the Operations Support Systems (OSS) and other systems costs they have incurred as a result of LNP are "for the provision of number portability." Their claims are based on the assertion that in the First Report and Order, the Commission stated that no degradation in the quality of any aspect of service received by any customer should result from the implementation of LNP. .... We do not interpret this performance criterion as authority for the proposition that all costs incidental to achieving that performance level are costs incurred "for the provision of portability." As noted above, we find that such a

---

<sup>32</sup> U S West, p. 8. U S West states that its fifth SCP pair is used as a Message Relay Point ("MRP"), and is "required because 6 digits (i.e., NPA-NXX), which were previously used to tell the SS7 network how to route queries for information retrieval, are no longer adequate in an LNP environment, where 10 digits (i.e., NPA-NXX-XXXX) are required to route queries for ported numbers." Id.

<sup>33</sup> Id.

reading would render meaningless the language of the Third Report and Order regarding the definition of eligible LNP costs.<sup>34</sup>

In keeping with this unequivocal ruling, U S West should not be permitted to recover the costs of its fifth SCP pair.

VII. U S WEST IMPERMISSIBLY INCLUDED LNP EXPENSES AND INVESTMENTS IN ITS INTRASTATE RESULTS

Finally, the Designation Order directed U S West to

file an explanation of how prior year costs related to long-term number portability implementation were treated with respect to jurisdictional separations. U S West should demonstrate that the number portability costs booked in past periods and included in the development of federal number portability charges have not been recovered already in the state jurisdiction. Alternatively, U S West should explain how state ratepayers will be made whole if the Commission allows federal recovery of costs previously assigned to the intrastate jurisdiction and included in the state ratemaking process. We also direct U S West to file an explanation of how costs related to long-term number portability implementation will be treated prospectively with respect to jurisdictional separations. U S West should demonstrate that long-term number portability costs included in the development of federal number portability charges will not be recovered prospectively in the state jurisdiction.<sup>35</sup>

U S West freely admits that it "has not removed LNP costs for prior years from the jurisdictional separation process."<sup>36</sup> The direct case offers to correct this error by including subsequent LNP revenues in its separations process, booking them to Account 5240. This offer, however, is not adequate to dispose of this issue.

---

<sup>34</sup> LNP Cost Classification Order, ¶ 13 (footnotes omitted, brackets in original).

<sup>35</sup> Designation Order, ¶ 36.

<sup>36</sup> U S West, p. 35.

The Commission's LNP Cost Recovery Order clearly held that long-term number portability costs and recoveries are exclusively federal and must be excluded from jurisdictional separations.

[W]e find that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanism for all the costs of providing long-term number portability. We conclude that an exclusively federal recovery mechanism for long-term number portability will enable the Commission to satisfy most directly its competitive neutrality mandate, and will minimize the administrative and enforcement difficulties that might arise were jurisdiction over long-term number portability divided. Further, such an approach obviates the need for state allocation of the shared costs of the regional databases, a task that would likely be complicated by the databases' multistate nature. Under the exclusively federal number portability cost recovery mechanism, incumbent LEC's number portability costs will not be subject to jurisdictional separations. Instead, we will allow incumbent LECs to recover their costs pursuant to requirements we establish in this Third Report and Order.<sup>37</sup>

U S West admits that including LNP costs in the separations process has caused its intrastate rates to be overstated, however it claims "[t]his had little or no impact on intrastate rates because the existing rates in most U S West states were established before U S West incurred any long term LNP costs."<sup>38</sup>

While it acknowledges that the issue of LNP costs has arisen in several state proceedings, U S West does not indicate how it has corrected its rates or refunded the overstated access and end user charges caused by its inclusion of LNP costs in the separations process. Even if no general rate filings occurred in 1997 or 1998, U S West should make the appropriate accounting adjustments to remove these charges and any associated revenues from its intrastate investments and expenses. Future intrastate rate cases may make use of historical investments

---

<sup>37</sup> LNP Cost Recovery Order, ¶ 29.

<sup>38</sup> U S West, p. 35.

and expenses, and U S West's intrastate figures are currently overstated by virtue of its inclusion of LNP-related costs. U S West should make the appropriate accounting adjustments in order to improve the accuracy of its reported intrastate results, adjust its intrastate access and end user charges to reflect the change, and refund the intrastate revenues it received in error.

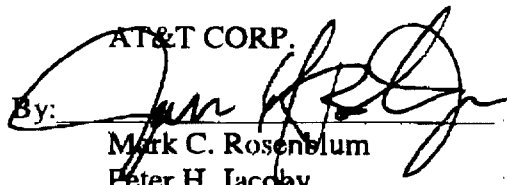
Moreover, in calculating its LNP surcharge and query rates, U S West included an annual 11.25% return on its unrecovered investment and expenses for years prior to 1999. However, as U S West now concedes, at least some of these purportedly "unrecovered" investments and expenses were in fact recovered through its intrastate access and end user rates. The Commission accordingly should require U S West to adjust its calculations to account for this fact.

PUBLIC VERSION

**CONCLUSION**

The Commission should resolve the legal and factual issues addressed in the instant pleading in accord with the arguments offered herein, and should prescribe LNP surcharge query rates in this proceeding in accord with those rulings. In addition, the Commission should order that the unlawful charges imposed to date be refunded with interest.<sup>39</sup>

Respectfully submitted,

AT&T CORP.  
By:   
Mark C. Rosenblum  
Peter H. Jacoby  
James H. Bolin, Jr.

Its Attorneys

Room 3245H1  
295 North Maple Avenue  
Basking Ridge, NJ 07920  
phone: (908) 221-4617  
fax: (908) 953-8360

May 7, 1999

---

<sup>39</sup> Interest should be "computed on the basis of daily compounded interest using interest rates specified by the United States Internal Revenue Service." Sec. e.g., Errata, 1997 Annual Access Tariff Filings, CC Docket No. 97-149 (released December 15, 1997), ¶ 3.

## **AT&T Exhibit 1**

# AT&T Exhibit 1 -- U S West OSS Costs Improperly Included In Its LNP Tariff

Application/ Functional Area	Modifications U S West Asserts Were Required	System Function / Explanation	U S West Rationale for Cost Recovery	AT&T Comments
SOAC (Service Order Analysis and Control)/  Provisioning, Billing and Repair	Interface with the new LSMS system required for LNP. Interface parsing routines were modified for each US West region to comply with LNP changes made to the SOP (Service Order Provisioning) systems.	Manages all service orders for each U S West region. Each service order is validated and distributed to downstream systems. The Service Order Processor maintains a status of a service order from initiation to completion	SOAC is required to build the information for messaging between SOA/LSMS and NPAC. SOAC also provides service order routing to the repair and billing systems.	Costs incurred to modify an existing service order processing systems used for repair and billing to allow it to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.
LFACS (Loop Facility Assignment and Control)  Provisioning	LFACS was modified to recognize NPA/NXXs that are foreign to US West and when the appropriate EXK FIDs and USOCS are passed, it assigns facilities to ported numbers.	Provides cable pair information for local loops to SOAC. It does a lookup for addresses, terminals, and services and sends the information to SOAC.	See modification required.	Costs incurred to modify an existing cable pair assignment processing system to allow it to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.
SWITCH  Provisioning	NPA/NXX points to a specific Network Location. For LNP, exchange key processing redirect cable pair and service order assignment using exchange key processing to a non standard network location that is disassociated from TN.	Takes the TN from CNUM, cable pair information from LFACS and guides to correct network location.	SWITCH is a coordination point between US West internal assignments and coprovider assignments. If the two are out of sync, call processing errors difficult to detect and correct.	Costs incurred to modify an inventory and assignment processing system to allow it to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.



## AT&T Exhibit 1 -- U S West OSS Costs Improperly Included In Its LNP Tariff

Application/ Functional Area	Modifications U S West Asserts Were Required	System Function / Explanation	U S West Rationale for Cost Recovery	AT&T Comments
WFA/C (Work and Force Admin /Control)  Provisioning Repair and Maintenance	Modifications to identify ported in numbers and ported out numbers to the WFA/DO and WFA/DI systems.	Mechanizes the administration of the installation and maintenance of designed and nondesigned circuits.	Dispatch can be done for installation if required for a ported number. Can route to repair calls for ported numbers.	Costs incurred to modify a repair and maintenance processing system to allow it to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.
WFA/DI (Work and Force Admin /Dispatch In  Provisioning Repair and Maintenance	Identify which tickets for trouble involve ported numbers. Receives information from WFAC for proper resource management.	Automates the work assignments of technicians in the centers. Assists in pricing, loading, and tracking work requests.	Where a ported number requires a dispatch in, WFA/DI manages the pricing, loading and tracking of work requests. Can route to Dispatch in repair calls for ported numbers.	Costs incurred to modify a repair and maintenance processing system to allow it to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.
WFA/DO (Work and Force Admin /Dispatch Out  Provisioning Repair and Maintenance	Identify which tickets for trouble involve ported numbers. Receives information from WFAC for proper resource management.	Automates support of the dispatch function for outside plant installation, maintenance, and routine work. It provides screening, pricing, mapping, routing, scheduling and loading functions.	Where a ported number requires a dispatch out, WFA/DO manages the pricing, loading and tracking of work requests. Can route to Dispatch out repair calls for ported numbers.	Costs incurred to modify a repair and maintenance processing system to allow it to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.

## AT&T Exhibit 1 -- U S West OSS Costs Improperly Included In Its LNP Tariff

Application/ Functional Area	Modifications U S West Asserts Were Required	System Function / Explanation	U S West Rationale for Cost Recovery	AT&T Comments
ALOC/CNUM (Access Location System/ Customer Number Admin System)  Provisioning Repair and Maintenance	Replaces existing PREMIS system and provides new method of TN admin. ALOC/ CNUM allows us to focus on address rather than TN.	Mated pair of systems which provide customer address information and TN administration. Identify which tickets for trouble involve ported numbers. Receives info from WFACC for proper resource mgt	TN admin system is key to ensuring that numbers are marked portable for LNP. Necessary for mgt of NPA Split, Muni split and rate center boundaries in a porting environment.	Costs incurred to allow NPA, Muni and rate center splits to operate in an LNP environment may not have been made "but for" LNP. However, they are required to "adapt other systems to implement portability", not "for the provision of" portability. As such, they are not recoverable through either the surcharge or the query charges.
RTT (Referral Tracking Tool)  Provisioning Repair and Maintenance	Uses Exchange key to track held orders for ported numbers.	Tracks held orders in all regions greater than 30 days	See modifications required.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing tracking tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.
SDTM (Soft Dial Tone Manager)  Provisioning	Discontinue placing restricted class of service on numbers that are ported	Intercepts a disconnect order and places a restricted class of service on the TN. This provides for instant connectivity to the local office.	See modifications.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.
FAS (Field Access System)  Repair	Identify and respond to troubles involving ported numbers. This system was modified to transfer work to non standard locations.	Used by technicians to dispatch and close jobs in WFA/DO	See modifications.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing repair tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.

# AT&T Exhibit 1 -- U S West OSS Costs Improperly Included In Its LNP Tariff

Application/ Functional Area	Modifications U S West Asserts Were Required	System Function / Explanation	U S West Rationale for Cost Recovery	AT&T Comments
FAST (Field Access Screening Tool)  Repair	Identify and respond to troubles involving ported numbers. This system was modified to transfer work to non standard locations.	Voice response system used by the LNO and construction technicians to access facilities information.	See modifications.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing repair tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.
Facility Check, Network Information Applet  Provisioning	Added export and import capabilities to Facility Check for LNP support. This aids a service rep to comply with the Rate Center Boundary Rules.	Group of applications that supports spare facilities for additional lines and services.	Aids USW in meeting FCC guidelines to avoid crossing rate center boundaries.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing provisioning tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.
Code Talker  Provisioning	Changes to maintain and propagate new FIDs. They are used by downstream systems to properly process activity.	A service negotiation and other entry tool used to create, revise and complete service requests for certain products and services including ISDN, Centrex Prime and MegaBit services.	Allows for establishment of appropriate service orders for ISDN, Centrex Prime and Megabit services.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing provisioning tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.
SONAR (Service Order Negotiation and Retrieval)  Ordering	Changes to maintain and propagate new FIDs. They are used by downstream systems to properly process activity.	Used to create business and simple business service orders. Performs a variety of other functions such as order number assignment, rate quotes, credit checks and appointment scheduling.	See modifications.	Modifications do not relate to performing queries or porting numbers between carriers. Instead, they involve changes made to an existing provisioning tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.

## AT&T Exhibit 1 -- U S West OSS Costs Improperly Included In Its LNP Tariff

Application/ Functional Area	Modifications U S West Asserts Were Required	System Function / Explanation	U S West Rationale for Cost Recovery	AT&T Comments
APRIL (Automatic Provisioning Infrastructure Layer) 100s Block Mech Provisioning	1) Order level RMA automation that will input 100 block level translation when it falls out of MARCH. 2) An automation procedure that is preprovisioning and supported through the LNP Port In database.	Receives and automatically activates service requests for certain products from various front end systems. Products include, but are not limited to POTS, ISDN and AIN services.	See modification.	Modifications do not relate to performing queries or porting numbers between carriers. The changes will be made to an existing provisioning tool to allow it to use ported numbers. Modifications may not have been made "but for" LNP, but were made to "adapt other systems to implement number portability" and therefore, are not "for the provision of" LNP.
Letter of Authorization (LOA) Imaging and Storage Provisioning	Build an application which can capture and store and image of an LOA form. Application must also provide for easy retrieval of LOAs.	New application which captures and stores an image of LOA. Also allows for easy retrieval of LOAs. LOAs are required to be received from customers for all win and winback orders.	See modification.	The need for LOAs is created by the advent of local competition-not LNP. Presumably these would be required even if the customer did not port their number. These costs, therefore fail both the "but for" and the "for the provision of" LNP tests.
Winback Database Lotus Forms Provisioning	Build forms in lotus notes to notify the order center that a win/winback order has been requested. Forms also notifies the order center of the status of the LOA. The winback database will store and track the status of orders	Primary interface between customer contact personnel who negotiate orders and the order center which performs the interface with the CLECs and completes the order.	See modification.	The need for Winback forms is created by the advent of local competition-not LNP. Presumably these would be required even if the customer did not port their number. These costs, therefore fail both the "but for" and the "for the provision of" LNP tests.
Dial Tranfer software for Bellcore Systems (e.g. Switch) Provisioning	Upgrade required to enable ported numbers on 1A, Ericcson or DMS 10 switches to properly transfer to new switches during conversions. This functionality is essential since the LRNs must be managed independent of the NPA-NXXs.	Software package that facilitates the transfer of numbers from one switch to another during switch conversion.	See modification.	Paragraph 27 of the MO&O states, "recovery for network upgrades is provided through ordinary price caps and rate of return mechanisms." LNP query and surcharges are not intended to compensate ILECs for upgrades caused by the use of older technologies in their networks.

# AT&T Exhibit 1 -- U S West OSS Costs Improperly Included In Its LNP Tariff

Application/ Functional Area	Modifications U S West Asserts Were Required	System Function / Explanation	U S West Rationale for Cost Recovery	AT&T Comments
NIA Replacement				See Facility Check, NIA
Bellcore Systems ALOC/ CNUM, SWITCH, SOAC				See ALOC/CNUM, SWITCH and SOAC
Maintenance	Maintenance of software, both purchased and developed in house, covers keeping the software current with the operating systems they run on, back up and recovery procedures, and database mgt. 15% of total spent is normal exp.	Maintenance	See Modification.	U S West has not shown they will incur an additional 15% incremental maintenance expense due to LNP. See section III B of AT&T's response.
Hardware	This hardware supports the systems implementation.	Not provided	See Modification.	While there will be some hardware required to implement LNP, US West has provided no details to support what they included in this number or how it related to any specific LNP funtions.

**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that on this 7<sup>th</sup> day of May, 1999, a copy of the foregoing "AT&T Corp. Opposition to Direct Case" was mailed by U.S. first class mail, postage prepaid, and sent via facsimile to the parties listed below:

James T. Hannon  
U S West Communications, Inc.  
Suite 700  
1020 19<sup>th</sup> Street, N.W.  
Washington, DC 20036  
phone: (303) 672-2860  
fax: (303) 295-6973

  
Terri Yannotta

May 7, 1999